

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	Zaki A. Khan
Title	VEHICLE SEAT
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Attorney Docket No.	E59121.006

Commissioner for Patents
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION
(MPEP § 706.07(d))

Sir:

In response to the Office action of July 22, 2010, applicants respectfully submit the following comments as a *bona fide* effort to advance the prosecution of this application. No new issues are raised in this submittal that would require further consideration and/or search by the examiner.

Claims 1-4, 6-9, 12 and 20 stand rejected under 35 U.S.C. § 103(a) in view of U.S. Pat. No. 2,771,124 to Borsani et al. (“Borsani”) in combination with JP Pub. No. 406234337 to Kuroiwa et al. (“Kuroiwa”) and U.S. Pat. No. 5,707,103 to Balk (“Balk”). The examiner asserts that Borsani teaches all of applicants’ claimed features except for a support leg, an anchor member connected to a vehicle’s structural portion, and an elevated second pivot axis.

To support an obviousness rejection MPEP § 2143.03 requires “all words of a claim to be considered” and MPEP § 2141.02 requires consideration of the “[claimed] invention and prior art as a whole.” Further, the Board of Patent Appeal and Interferences recently confirmed that a proper, post - KSR obviousness determination still requires the Office make “a searching comparison of the claimed invention—including all its limitations—with the teaching of the prior art.” *In re Wada and Murphy*,

Appeal 2007 - 3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) and *CFMT v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003). In sum, it remains well-settled law that an obviousness rejection requires at least a suggestion of all of the elements of the rejected claim.

The examiner asserts on pages 2 and 3 of the present Office action that the top portion of the seat cushion 1 of Borsani is capable of being pivoted to a position facially adjacent a seatback 2, and that the seatback is capable of being pivoted to a position facially adjacent the top portion of the seat cushion. Applicants respectfully disagree. Nowhere in the specification or figures does Borsani disclose this feature. Furthermore, the seat cushion and seatback taught by Borsani and shown in Fig. 1 cannot be pivoted in the manner of applicants' claimed invention. As shown in Exhibit A below, Fig. 1 of Borsani has been marked up to show that seatback 2 clearly cannot be pivoted to a position facially adjacent the top portion of the seat cushion 1 because, as indicated by the hatched area, the seat cushion interferes with the movement of the seatback and thus prevents the seatback from being positionable facially adjacent the top portion of the seat cushion. Likewise, as shown in Exhibit B below, Fig. 1 of Borsani is marked up to clearly show that seat cushion 1 cannot be pivoted to a position facially adjacent the seatback 2 because, as indicated by the hatched area, the seatback interferes with the movement of the seat cushion and thus prevents the seat cushion from being positionable facially adjacent the seatback.

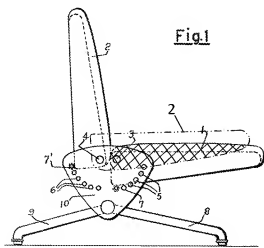


Exhibit A

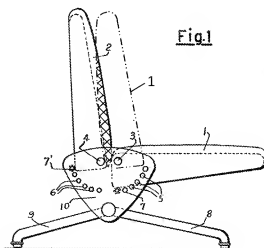
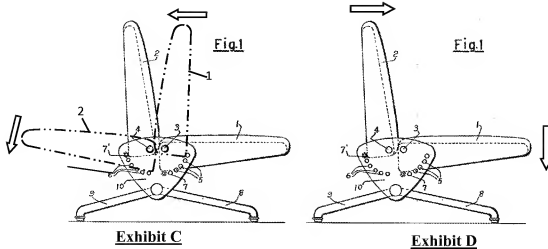


Exhibit B

Furthermore, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). On page 5 of the present Office action the examiner asserts that one would be motivated by the teachings of Balk to elevate the pivot point of the seatback with respect to the seat cushion. In fact, Borsani teaches that the seat cushion 1 and the seatback 2 (and thus pivot points 3, 4 of the seat cushion and the seatback respectively) are to be in the same plane so that the divan can be configured as a bed (col. 1, lines 33-39; col. 1, line 65 through col. 2, line 2). Clearly, elevating the pivot point 4 of the seatback 2 of Borsani in the manner proposed by the examiner would not allow the seatback to lie in the same plane as the seat cushion 1 as prescribed by Borsani, and would therefore destroy the divan's intended purpose of functioning as a bed. Thus, contrary to the examiner's assertion on page 5 of the Office action, there is no motivation or suggestion to elevate the pivot point 4 of the seatback 2 of Borsani with respect to the pivot point 3 of the seat cushion 1.

In addition, although the seat cushion 1 and seatback 2 of Borsani are "independently pivotable" (i.e., no adjustment mechanism linking together the movement of the seat cushion and the seatback) as asserted by the examiner on page 3 of the Office action, unlike applicants' claimed invention the seat cushion of Borsani is not movable while the seatback is stationary; nor is the seatback movable while the seat cushion is stationary, in the manner of applicants' claimed invention. As noted above and shown in Exhibits A and B, the seat cushion 1 and seatback 2 interfere with each others' pivotal movement about pivot points 3 and 4 respectively. Accordingly, moving seat cushion 1 upwardly requires that the seatback 2 be moved downwardly, as illustrated in marked-up Fig. 1 of Borsani shown in Exhibit C. Likewise, moving seatback 2 upwardly requires that the seat cushion 1 be moved downwardly, as illustrated in the marked-up Fig. 1 of Borsani shown in Exhibit D.



Balk and Kuroiwa likewise fail to teach a seat cushion and seatback that operate in the manner of applicants' claimed invention.

For at least the foregoing reasons applicants submit that the invention of Claims 1-4, 6-9, 12 and 20 are patentable over the combination of Borsani, Balk and Kuroiwa. Since the examiner has already located the most relevant art, applicants further submit that Claims 1-4, 6-9, 12 and 20 are in condition for allowance.

Claims 10, 11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borsani, Balk and Kuroiwa, further in view of U.S. Pat. No. 5,826,942 to Sutton et al. ("Sutton"). Applicants submit that Claim 1 is patentable over the combination of Borsani, Balk and Kuroiwa for the reasons provided above. Sutton, cited by the examiner with regard to a pivotable headrest and a third latch, fails to provide any additional teaching or suggestion that would render Claim 1 obvious. Claims 10, 11 and 13-15 are thus likewise allowable because these claims depend ultimately from amended Claim 1 and each add limitations that further distinguish the claimed invention from the prior art.

For the reasons discussed above, applicants submit that Claims 1-4, 6-15 and 20 of the pending application are patentable over all the prior art of record. It is believed that the application is in form for allowance and favorable action by the examiner is respectfully requested.

Respectfully Submitted,

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